



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ATLANTIC RECORDING CORPORATION,

Plaintiff,

- v -

BCD MUSIC GROUP, INC. and MIXTRAP LLC,

Defendants.
-----X

08 Civ. 5201 (WHP)

PRELIMINARY INJUNCTION ORDER
AGAINST MIXTRAP LLC

Upon the Complaint with attached exhibits, the moving Declarations with attached exhibits and the Memorandum of Law In Support of Motion for Preliminary Injunction and Expedited Discovery, and upon consent of Defendant Mixtrap LLC, it is hereby:

I. ORDERED that Defendant Mixtrap LLC and its agents, servants, employees, and attorneys and those persons in active concert or participation with it ("Mixtrap") are hereby preliminarily enjoined pending further order of this Court or written agreement of the parties:

- A. From using the professional names and likenesses of the recording artist Al Gernod L. Washington p/k/a "Plies" ("Plies") in connection with the creation, reproduction or distribution of unauthorized recordings made by or of such recording artist including an album titled *Definition of Real*;
- B. From using any logo, trade name, trademark or service mark, which may be calculated to falsely represent or which has the effect of falsely representing that the goods created, reproduced or distributed by Mixtrap

are sponsored by, authorized by, or in any way associated with Plaintiff, or any recording artists known by Mixtrap to be signed to Plaintiff or its affiliates, including “Plies”;

- C. From using the name *Definition of Real*, or any confusingly similar name, including a name containing the word “Real,” as the name of an album created, reproduced or distributed by Mixtrap containing recordings made by or of the artist Plies;
- D. From reproducing, distributing, publicly performing by digital audio transmission, or preparing derivative works of the sound recordings “Shawty,” “You,” “Hypnotized,” and “Murkin Season” or any other sound recording by or of the artist Plies, including the album *Definition of Real*;
- E. From reproducing, distributing, publicly performing by digital audio transmission, or preparing derivative works of any other sound recording known by Mixtrap to be owned by or exclusively licensed to Plaintiff or any of its affiliates without express written authority from Plaintiff or the appropriate affiliate of Plaintiff,;
- F. For purposes of this order, Mixtrap will be deemed to have knowledge that an artist is signed to Plaintiff or its affiliates, or that Plaintiff or its affiliates have rights to the artist’s recordings (i) if the artist’s name appears on Atlantic’s or its affiliates websites, links to which are found at www.wmg.com; or (ii) if Mixtrap has actual knowledge of such fact; or (iii) if Plaintiff or its affiliates can prove that Mixtrap did not take reasonable steps to ascertain whether Atlantic or its affiliate have rights in

connection with such artist.

II. Requiring Defendant Mixtrap to:

- A. Deliver to Plaintiff's counsel within two business of the date of this order a list of all persons and entities who received a copy/copies of *Definition of Real* from Mixtrap together with all known contact information for such persons/entities and the number of copies of *Definition of Real* provided to each such person or entity by Mixtrap;
- B. Distribute the corrective letter in the form of Exhibit A to all persons or entities who received any copies of *Definition of Real* from Mixtrap for the purposes of resale;
- C. Deliver to Plaintiff any and all copies of compact discs, cassettes or other medium of *Definition of Real* and all signs, labels, packaging materials, advertising materials, and other materials used to promote same;

III. ORDERED that Plaintiff shall be entitled to take expedited discovery from Defendant as set forth on Exhibit s B.


U.S.D.J.

Issued: June 12, 2008

EXHIBIT A

[contact]

[address]

Re: Copyright and Trademark Infringement

Dear _____,

Pursuant to an Order of The United States District Court for the Southern District of New York, we are writing to inform you that the following Albums distributed by Mixtrap, LLC, MUST immediately be removed from sale and returned to us. Failure to comply may subject you to liability for copyright infringement and trademark infringement.

Definition of Real by Plies

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ATLANTIC RECORDING CORPORATION	:	
	:	_____ Civ. _____
Plaintiff,	:	
	:	
- v -	:	
	:	
BCD MUSIC GROUP, INC. and	:	<u>EXPEDITED DOCUMENT REQUEST</u>
MIXTRAP, LLC,	:	
	:	
Defendants.	X	

PLEASE TAKE NOTICE that pursuant to Rule 34 of the Federal Rules of Civil Procedure and by order of this Court, Plaintiff requests that Defendant Mixtrap, LLC (“Mixtrap”) respond and produce for inspection and copying by Plaintiff at the offices of Blank Rome LLP, The Chrysler Building, 405 Lexington Avenue, New York, New York, 10174, by June 23, 2008 at 10:00 a.m., and in the manner prescribed by Rule 34 of the Federal Rules of Civil Procedure: all documents, tangible things, and electronically stored information, relating to the following information:

1. Documents supporting Mixtrap’s right to reproduce and distribute the recordings embodied on *Definition of Real*.
2. Documents supporting Mixtrap’s right to use Plies’ name and likeness in connection with the promotion and sale of the album *Definition of Real*.
3. Documents concerning Mixtrap’s choice of the album name *Definition of Real* and the purported right to use such name.

4. Mixtrap's catalog of music titles, listing all tracks and artists Mixtrap currently distributes.

Dated: New York, New York
June 12, 2008

BLANK ROME LLP

By: _____
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